

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION)	CIVIL ACTION: 01-CV-12257-PBS
)	
)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>)	Chief Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc.,</i>)	
No. 06-CV-11337-PBS)	

**ABBOTT LABORATORIES, INC.'S
MOTION FOR LEAVE TO FILE A SUR-REPLY TO THE UNITED STATES' AND
RELATOR'S REPLY MEMORANDUM IN SUPPORT OF A PROTECTIVE ORDER**

Pursuant to Local Rule 7.1(b)(3), Defendant Abbott Laboratories, Inc. ("Abbott") respectfully moves this Court for leave to file its Sur-Reply to the United States' and Relator's ("United States") Reply Memorandum in Support of a Protective Order, attached hereto as Exhibit 1.

On October 18, 2006 this Court granted the United States leave to file a Reply Brief in Support of its Motion for a Protective Order. (Dkt. No. 3228.) Abbott maintains that a short response is needed to demonstrate that the United States' Protective Order finds no basis in law or fact, and, in fact, would threaten to derail the entire MDL discovery process, which has proceeded under the current Protective Order for nearly four years. The Sur-Reply is less than 4 pages.

WHEREFORE, Abbott requests that its Motion be granted, and that the Court permit it to file its Sur-Reply, attached hereto as Exhibit 1.

Dated: October 20, 2006

Respectfully submitted,

/s/ Brian J. Murray

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CERTIFICATION PURSUANT TO LOCAL RULE 7.1

I certify that the moving parties have communicated with opposing counsel in an effort to resolve the dispute referred to in this motion, and that opposing counsel indicated he would not consent to this motion.

/s/ Brian J. Murray

Brian J. Murray

CERTIFICATE OF SERVICE

I, Brian J. Murray, hereby certify that I am one of Abbott Laboratories' attorneys, and that I caused a true and correct copy of the foregoing ABBOTT LABORATORIES, INC.'S MOTION FOR LEAVE TO FILE A SUR-REPLY TO THE UNITED STATES' AND RELATOR'S REPLY MEMORANDUM IN SUPPORT OF A PROTECTIVE ORDER to be served on all counsel of record electronically by causing same to be posted via LexisNexis, this 20th day of October, 2006.

/s/ Brian J. Murray

Brian J. Murray